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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------|-------------|----------------------|-------------------------------|------------------|
| 10/006,514 | 12/03/2001 | Thomas Eckel | Mo-6622/LeA 34,095 | 8033 |
| 157 | 7590 | 08/09/2004 | EXAMINER | |
| BAYER MATERIAL SCIENCE LLC | | | SANDERS, KRIELLION ANTIONETTE | |
| 100 BAYER ROAD | | | ART UNIT | PAPER NUMBER |
| PITTSBURGH, PA 15205 | | | 1714 | |

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|----------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/006,514 | ECKEL ET AL. |
| | Examiner Kriellion A. Sanders | Art Unit 1714 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 13 May 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jaquiss et al, US Patent No. 4,532,290.

Applicant's claim 1 requires an aromatic polycarbonate and/or polyester carbonate, an impact modifier and a combination of a phosphorus compound and another phosphorus compound, different from the first and selected from phosphorus oxide, phosphorus sulfide, aluminum phosphate, alkaline-earth phosphate, alkali phosphate and ammonium phosphate.

Jaquiss et al discloses compositions comprising polycarbonate/ polyester, and a melt stabilizer which is monosodium phosphate and/or monopotassium phosphate. Claim 13 of the patent further provides for an impact modifier resin. See claims 1, 2, 4, 5 and 6 and Examples 1-4. Claim 15 provides for an additional flame retarding agent.

Since claim 1 indicates that monosodium phosphate may be used in combination with monopotassium phosphate. The phosphates are used in amounts ranging from 0.01 to 7.5 pbw per 100 pbw of polyester. Patentee has met the limitations of applicant's claims 1-3. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to formulate a composition comprising a polycarbonate, impact modifier and a combination of monosodium phosphate and monopotassium phosphate. Such a composition corresponds directly to the compositions of applicant's claims.

3. Claims 1- 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eckel et al, US Patent No. 5,672,645 in view of Jacquiss et al, US Patent No. 4,532,290.

Eckel et al discloses a flame resistant, thermoplastic molding composition comprising an aromatic thermoplastic, a vinyl copolymer, a graft copolymer, a mixture of two phosphorus compounds and a fluorinated polyolefin. The patented invention differs from applicant's invention primarily in that it does not include an additional phosphorus compound selected from phosphorus oxide, phosphorus sulfide, aluminum phosphate, alkaline-earth phosphate, alkali phosphate and ammonium phosphate. However, it is noted that the compositions of Eckel et al are melt compounded or melt extruded by customary procedures. Jacquiss et al teaches that monosodium phosphate and mono-potassium phosphate are melt stabilizers for polycarbonate/polyester compositions. Since Eckel et al indicates that additional stabilizers may be included in the patented compositions, it would have been obvious to the ordinary practitioner to include the melt stabilizers of Jacquiss et al in the Eckel et al compositions prior to or during melt processing, to obtain the usual properties of melt-stability associated with the phosphate compounds. See col. 10 lines 17-34 and claims 1-11 of Eckel et al and see col. 2, line 36 through col. 3, line 21 of Jaquiss et al.

4. Applicant's arguments filed 5/13/2004 have been fully considered but they are not persuasive. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

5. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

6. Applicant's arguments with respect to claims 1- 22 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kriellion A. Sanders whose telephone number is 571-272-1122. The examiner can normally be reached on Monday through Thursday 6:30-7:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kriellion A. Sanders
Primary Examiner
Art Unit 1714

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